

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
February 26, 2007

D047697 Wholesale Electricity Anti-Trust Cases I & II

The judgment of dismissal is affirmed. Plaintiffs are to pay the ordinary costs on appeal.
CERTIFIED FOR PUBLICATION Huffman, J.; We Concur: McConnell, P.J., Irion, J.

**D050189 Michelle T. v. Superior Court of San Diego County/San Diego County Health
and Human Services Agency**

The attorney for petitioner Michelle T. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

D050339 McNeill v. Superior Court of San Diego County/Mc Neill, Suzanne

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
February 27, 2007

D048245 People v. Handshoe

The judgment is affirmed. McConnell, P.J.; We Concur: Benke, J., McDonald, J.

D048395 People v. Casey

The judgment is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., Aaron, J.

D046976 People v. Murillo

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., McDonald, J.

D049645 In re Quillar on Habeas Corpus

The petition and request for transcript are denied.

D050211 In re Pratts on Habeas Corpus

The petition is denied.

D049721 In re Ruiz on Habeas Corpus

The petition is denied.

D048493 In re Arturo G., a Juvenile

The judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., Aaron, J.

D047541 People v. Saunders

The judgment is affirmed. Aaron, J.; We Concur: Huffman, Acting P.J., Irion, J.

D047844 People v. Gelashvili

The sentence and enhancement on count 4 are stayed. The court's imposition of upper term sentences on counts 2 through 4 is reversed, and we remand this matter for further proceedings not inconsistent with this opinion and *Cunningham*. The abstract of judgment must be corrected to reflect the stay on count 4 and also that (1) the determinate terms are to run before the count 1 indeterminate life term; and (2) the enhancement in count 3 is imposed pursuant to section 12022.5, subdivision (a). The court is directed to send an amended abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., Aaron, J.

D049366 People v. Teel

The judgment is affirmed. Haller, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

D048208 Sanders v. Ryan et al.

Appellant's petition for rehearing is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
February 27, 2007 (Continued)

D046703 People v. Hernandez

The judgment is affirmed. Aaron, J.; We Concur: Nares, Acting P.J., Haller, J.

D048174 People v. Brown

The appeal is dismissed. McIntyre, J.; We Concur: Huffman, Acting P.J., Aaron, J.

D048513 People v. Glaser

The robbery conviction is affirmed. The attempted robbery conviction is reversed, and the matter is remanded for the trial court to amend the abstract of judgment to delete the attempted robbery conviction. The trial court shall advise the Department of Corrections and Rehabilitation of the amendment. Irion, J.; We Concur: McConnell, P.J., McIntyre, J.

D047799 In re Maximiliano Rios on Habeas Corpus

The order granting the petition for writ of habeas corpus is reversed, with directions to enter a new order denying the petition. Haller, J.; We Concur: McConnell, P.J., Aaron, J.

D047866 Schaffer v. Donner Management

The judgment is affirmed. Schaffer to pay Respondents' costs on appeal. Haller, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

D048959 In re Ariel W., a Juvenile

The orders are affirmed. McConnell, P.J.; We Concur: Aaron, J. Irion, J.

D049598 People v. Zambrano

D049617 In re Zambrano on Habeas Corpus

The pending petition for writ of habeas corpus is consolidated with the pending appeal.

D049598 People v. Zambrano

D049617 In re Zambrano on Habeas Corpus

The judgment is affirmed and the petition for writ of habeas corpus is denied. McIntyre, J.; We Concur: McDonald, Acting P.J., Aaron, J.

D048447 In re the Conservatorship of Christopher A.

The appeal is dismissed. Benke, Acting P.J.; We Concur: McDonald, J., Irion, J.

D047429 Novi Industries, Inc. v. Schreiber Foods, Inc.

The judgment is affirmed. Respondent is awarded costs on appeal. McConnell, P.J.; We Concur: Benke, J., McDonald, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
February 27, 2007 (Continued)

D047297 People v. Tate et al.

The judgment against Andrew Lee Tate is affirmed. The judgment against Joshua Andrew Madison is modified to stay the sentence imposed for count 3 under Penal Code section 654; as so modified, the judgment is affirmed. The matter is remanded and the trial court shall prepare an amended abstract of judgment and forward copies to the Department of Corrections and Rehabilitation. O'Rourke, J.; We Concur: McConnell, P.J., Benke, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
February 28, 2007

D048707 People v. Penn

The judgment is affirmed. McDonald, J.; We Concur: Nares, Acting P.J., Irion, J.

D048878 Polte v. Denzien

The order issuing the injunction is modified by striking Nicholas from "Other Protected Persons" and, as so modified, affirmed. The parties shall bear their own costs on appeal. McDonald, J. We Concur: Benke, Acting P.J., Haller, J.

D044779 Jet Source Charter, Inc. v Doherty et al.

The opinion filed January 30, 2007 is modified. No change in judgment. As modified, the opinion is ordered certified for publication with the exception of discussion parts I, II, III, IV. The petition for rehearing is denied.

D048859 People v. Smith

The judgment is affirmed. McDonald, J.; We Concur: McConnell, P.J., Huffman, J.

D046696 People v. Mays

The judgment is affirmed. CERTIFIED FOR PUBLICATION. McConnell, P.J.; We Concur: Benke, J., O'Rourke, J.

D047552 People v. Loi

The judgment is affirmed. McDonald, J.; We Concur: Haller, Acting P.J., McIntyre, J.

**D050270 D'Arrigo Bros. Co. of California v. Agricultural Labor Relations
Board/United Farm Workers of America**

The petition is denied.

D048082

People v. Abdulhafeez

The trial court shall amend the abstract of judgment to strike the conviction for simple possession of a controlled substance. The judgment is affirmed as so modified. The trial court shall advise the Department of Corrections and Rehabilitation of the amendment. Aaron, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

D046666 People v. Horton

The judgment is reversed. Irion, J.; I Concur: McIntyre, J.; I Concur in Part and Dissent (by opinion): Nares, Acting P.J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
February 28, 2007 (Continued)

D050208 Della H. et al. v Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Della H. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case as to Della H. is dismissed.

D049647 In re Walker on Habeas Corpus

The petition is denied.

D050272 Vicor Corporation v. Superior Court of San Diego County/Ericsson Inc., et al.

The petition is denied.

D050174 Charles B. v. Ebony H.

Pursuant to California Rules of Court, rule 8.140, the appeal filed January 17, 2007, is dismissed for appellant's failure to timely designate the record. (Cal. Rules of Court, rules 8.120(a), 8.130(a)).

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
March 1, 2007

D049609 Paprocki v. County of San Bernardino et al.

The judgment is reversed to the extent it remands the matter to County for further consideration regarding appropriate punishment. In all other respects, the judgment is affirmed. The matter is remanded to the superior court with directions that it enter a new judgment denying the petition for writ of mandate (without remand to County). County is entitled to costs on appeal.

McDonald, J; We Concur: Haller, Acting P.J., Aaron, J.

D048152 Elasali v. Soares et al.

The motion to dismiss the appeal is granted. The appeal is dismissed.

D046600 Jones v. The Lodge At Torrey Pines Partnership et al.

The petition for rehearing is denied.

D046209 People v. Ybarra

The matter is remanded to the trial court with directions to strike the two section 667.5, subdivision (b) enhancements, to prepare an amended abstract of judgment and forward a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed. McConnell, P.J.;

We Concur: McIntyre, J., O'Rourke, J.

D046474 Styles v. Schwab et al.

The order denying Schwab's anti-SLAPP motion is affirmed. The order granting Parents' anti-SLAPP motion is reversed and the matter is remanded with directions to deny Parents' anti-SLAPP motion.

Styles is entitled to costs on appeal. McDonald, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

D047508 Styles v. Schwab et al.

The order awarding attorney fees is reversed. Styles is entitled to costs on appeal. McDonald, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

D048529 People v. Moore

The judgment is affirmed. McConnell, P.J.; We Concur: Haller, J., McIntyre, J.

D049338 Michalski v. Sharp Grossmont Hospital

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 8.220(a). The appeal is dismissed.

D049816 People v. Cassidy

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
March 2, 2007

D047709 People v. Scott

The petition for rehearing is denied.

D049840 Connie B. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

Let a writ issue directing the respondent juvenile court to (1) vacate its November 15, 2006 order terminating reunification services for Connie and setting the matter for section 366.26 permanency planning hearing; (2) reverse its finding that Connie did not regularly participate in and make substantive progress with her case plan; and (3) issue a new order directing Agency to provide six more months of services to Connie. This opinion is final immediately as to this court. (Rule 8.264(b)(3)). The request for a stay is denied as moot. Aaron, J.; We Concur: Haller, Acting P.J., McDonald, J.

D048755 People v. Lampkin, Jr.

The judgment is affirmed. Nares, J.; We Concur: Benke, Acting P.J., McDonald, J.

D049388 In re Jeffrey S. et al., Juveniles

The judgments and orders are affirmed. Huffman, Acting P.J.; We Concur: Haller, J., Aaron, J.

D049556 In re Christopher B., a Juvenile

The appeal is dismissed. Aaron, J.; We Concur: Huffman, Acting P.J., Aaron, J.

D049043 People v. Beck

Appellant's fourth application for extension of time to file appellant's opening brief is DENIED. The notice of appeal is premature because no appealable order or judgment has yet been entered. The appeal is DISMISSED without prejudice to refiling a notice of appeal after an appealable order or judgment has been entered.

D049499 In re Richard B., a Juvenile

The appeal is dismissed. Benke, Acting P.J.; We Concur: Haller, J., Aaron, J.

D048553 People v. Villalobos

The judgment is affirmed. McDonald, J.; We Concur: Haller, Acting P.J., Irion, J.

D046810 People v. Yogerst

D049341 In re Yogerst on Habeas Corpus

The petition for writ of habeas corpus, *In re Mark Anthony Yogerst*, D049341, is consolidated with the pending appeal, *People v. Yogerst*, D046810, for purposes of disposition.

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE
March 2, 2007 (Continued)

D046810 People v. Yogerst

D049341 In re Yogerst on Habeas Corpus

(Consolidated) The petition is denied. The judgment is reversed in part and affirmed in part. Yogerst's conviction of rape on an intoxicated person (count 2: at 261(a)(30) and his sentence are reversed. His conviction of rape of an unconscious person (count 1: at 261(a)(4)) is affirmed. The matter is remanded for resentencing proceedings not inconsistent with this opinion and *Cunningham, supra*, 127 S.Ct.856. Nares, Acting P.J.; We Concur: McDonald, J., Irion, J.

D050248 Ashley H. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Ashley H. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

D050105 Regina A. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Regina A. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

D050244 Lisa T. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The attorney for petitioner Lisa T. has notified the court that a petition for writ of mandate under California Rules of Court, rules 8.452 and 5.600 will not be filed as there are no viable issues for writ review. The case is dismissed.

D049210 In re Emmanuel L., a Juvenile

The judgment is affirmed. Benke, Acting P.J.; We Concur: Haller, J., McIntyre, J.

D049547 Kavanau-Levine v. Evergreen at La Jolla, LLC

The parties' written stipulation to dismiss the appeal and respondents' request to withdraw their motion to dismiss and motion for sanctions are ACCEPTED. The appeal is DISMISSED and the remittitur is ordered to issue immediately. (Cal. Rules of Court, rule 8.244(c)(2)). Each party to bear its own costs on appeal.